IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

MILWAUKEE ELECTRIC TOOL CORPORATION, METCO BATTERY TECHNOLOGIES, LLC, AC (MACAO COMERCIAL OFFSHORE) LIMITED and TECHTRONIC INDUSTRIES CO. LTD.,	)	Civil Action No. 2:14-cv-01295-JPS
Plaintiffs,	)	
v.	)	
POSITEC TOOL CORPORATION and POSITEC USA, Inc.	)	
Defendants.	)	

DECLARATION OF ROBERT H. EICHENBERGER IN SUPPORT OF POSITEC'S MOTION FOR SUMMARY JUDGMENT OF INVALIDITY, NONINFRINGEMENT, LACK OF WILLFUL INFRINGEMENT, AND NO PRE-SUIT DAMAGES

Pursuant to Civil L.R. 56 (b)(1)(D), Defendants submit declarations and other materials in support of Defendants' Motion for Summary Judgment of Invalidity, Non-Infringement, Lack of Willful Infringement, and No Pre-suit Damages filed concurrently herewith. In connection with this submission under Civil L.R. 56 (b)(1)(D), I, Robert H. Eichenberger, declare as follows:

1. I am a partner at the law firm of Middleton Reutlinger PSC, 401 South 4th Street, Suite 2600, Louisville, KY 40202 and an attorney for Defendants Positec Tool Corporation and Positec USA, Inc. (collectively, "Positec") in this litigation. I have personal knowledge of the facts set forth herein and can testify competently thereto.

2. Attached hereto as Exhibit 1 is the Declaration of Dr. Yet-Ming Chiang.

3. Attached hereto as Exhibit 2 is a true and correct copy of U.S. Patent No. 7,554,290.

4. Attached hereto as Exhibit 3 is a true and correct copy of U.S. Patent No. 7,944,173.

5. Attached hereto as Exhibit 4 is a true and correct copy of U.S. Patent No. 7,999,510.

6. Attached hereto as Exhibit 5 is a true and correct copy of U.S. Provisional Patent Application 60/440,692 produced by Snap-on Incorporated ("Snap-on") bearing Bates Number SNPON0006569–SNPON0006603.[1]

7. Attached hereto as Exhibit 6 is a true and correct copy of U.S. Provisional Patent Application 60/440,693 produced by Snap-on bearing Bates Number SNPON0006604–SNPON0006659.

8. Attached hereto as Exhibit 7 is a true and correct copy of U.S. Provisional Patent Application 60/523,712 produced by Snap-on bearing Bates Number SNPON0006660–SNPON0006724.

9. Attached hereto as Exhibit 8 is a true and correct copy of U.S. Provisional Patent Application 60/523,716 produced by Snap-on bearing Bates Number SNPON0006725–SNPON0006870.

10. Attached hereto as Exhibit 9 is a true and correct copy of transcript excerpts from the deposition of Mr. Gary Meyer taken on July 7 & 8, 2015.

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[1] The documents referenced herein as produced by Snap-on were produced to Plaintiffs by Defendant Snap-on Incorporated in Case No. 2:14-cv-01296-JPS, one of the related cases to this litigation.

11. Attached hereto as Exhibit 10 is a true and correct copy of the declaration of Gary Meyer excerpted from the prosecution file history for Serial No. 11/780,829 produced by Milwaukee Electric Tool bearing Bates Number METCO0000219–METCO0000293.

12. Attached hereto as Exhibit 11 is a true and correct copy of an email produced by Milwaukee Electric Tool bearing Bates Number METCO0119293.

13. Attached hereto as Exhibit 12 is a true and correct copy of an excerpt from the Handbook of Batteries produced by Snap-on bearing Bates Number SNPON0006188–SNPON0006324.

14. Attached hereto as Exhibit 13 is a true and correct copy of Plaintiffs' Amended First Supplemental Answers to Defendants' First Set of Common Interrogatories.

15. Attached hereto as Exhibit 14 is a true and correct copy of Webster's II New College Dictionary (2001) definition of "Support" produced by Snap-on bearing Bates Number SNPON0032405–SNPON0032407.

16. Attached hereto as Exhibit 15 is a true and correct copy of Webster's Third New Int'l Dictionary (2002) definition of "Support" produced by Snap-on bearing Bates Number SNPON0032408–SNPON0032410.

17. Attached hereto as Exhibit 16 is the Declaration of John F. Naber, Ph.D. in Support of Positec's Motion for Summary Judgment of Non-Infringement.

18. Exhibit 17 has been intentionally omitted.

19. Exhibit 18 has been intentionally omitted.

20. Exhibit 19 has been intentionally omitted.

21. Exhibit 20 has been intentionally omitted.

22. Exhibit 21 has been intentionally omitted.

23. Exhibit 22 has been intentionally omitted.

24. Exhibit 23 has been intentionally omitted.

25. Exhibit 24 has been intentionally omitted.

26. Exhibit 25 has been intentionally omitted.

27. Attached hereto as Exhibit 26 is a true and correct copy of an agreement bearing Bates Number METCO0156988–METCO0157010.

28. Attached hereto as Exhibit 27 is a true and correct copy of an agreement bearing Bates Number METCO-SNAPON0002033–METCO-SNAPON0002081.

29. Exhibit 28 has been intentionally omitted.

30. Exhibit 29 has been intentionally omitted.

31. Exhibit 30 has been intentionally omitted.

32. Attached hereto as Exhibit 31 is a true and correct copy of a Letter produced by Milwaukee Electric Tool Corporation bearing Bates Number METCO0047558-METCO0047560.

33. Exhibit 32 has been intentionally omitted.

34. Exhibit 33 has been intentionally omitted.

35. Exhibit 34 has been intentionally omitted.

36. Exhibit 35 has been intentionally omitted.

37. Exhibit 36 has been intentionally omitted.

38. Exhibit 37 has been intentionally omitted.

39. Exhibit 38 has been intentionally omitted.

40. Exhibit 39 has been intentionally omitted.

41. Exhibit 40 has been intentionally omitted.

42. Exhibit 41 has been intentionally omitted.

43. Exhibit 42 has been intentionally omitted.

44. Exhibit 43 has been intentionally omitted.

45. Exhibit 44 has been intentionally omitted.

46. Exhibit 45 has been intentionally omitted.

47. Exhibit 46 has been intentionally omitted.

48. Exhibit 47 has been intentionally omitted.

49. Attached hereto as Exhibit 48 is a true and correct copy of the Preliminary Pretrial Conference Order, Dkt. 39, from *Taurus v. Toyota Motor North America, Inc.*, Case No. 07-C-158-C (W.D. WI).

50. Attached hereto as Exhibit 49 is a true and correct copy of an Order, Dkt. 264, from *Taurus v. Toyota Motor North America, Inc.*, Case No. 07-C-158-C (W.D. WI).

51. Attached hereto as Exhibit 50 is a true and correct copy of Hilti's Petition for *Inter Partes* Review of U.S. Patent No. 7,554,290.

52. Attached hereto as Exhibit 51 is a true and correct copy of Hilti's Petition for *Inter Partes* Review of U.S. Patent No. 7,944,173.

53. Attached hereto as Exhibit 52 is a true and correct copy of Hilti's Petition for *Inter Partes* Review of U.S. Patent No. 7,999,510.

54. Attached hereto as Exhibit 53 is a true and correct copy of Snap-on's Petition for *Inter Partes* Review of U.S. Patent No. 7,554,290.

55. Attached hereto as Exhibit 54 is a true and correct copy of Snap-on's Petition for *Inter Partes* Review of U.S. Patent No. 7,944,173.

56. Attached hereto as Exhibit 55 is a true and correct copy of Snap-on's Petition for *Inter Partes* Review of U.S. Patent No. 7,999,510.

57. Attached hereto as Exhibit 56 is a true and correct copy of the Decision of the U.S. Patent Trial and Appeal Board to institute *Inter Partes* Review of U.S. Patent No. 7,554,290, in Case IPR2015-00596.

58. Attached hereto as Exhibit 57 is a true and correct copy of the Decision of the U.S. Patent Trial and Appeal Board to institute *Inter Partes* Review of U.S. Patent No. 7,944,173 in Case IPR2015-00595.

59. Attached hereto as Exhibit 58 is a true and correct copy of the Decision of the U.S. Patent Trial and Appeal Board to institute *Inter Partes* Review of U.S. Patent. No. 7,999,510 in Case IPR2015-00597.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 31, 2015.

/s/ Robert H. Eichenberger
Robert H. Eichenberger

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